

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **VICE CHAIRMAN DAN MCGEE**, on February 14, 2003
at 8:00 A.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Duane Grimes, Chairman (R)
Sen. Dan McGee, Vice Chairman (R)
Sen. Brent R. Cromley (D)
Sen. Aubyn Curtiss (R)
Sen. Jeff Mangan (D)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)
Sen. Gary L. Perry (R)
Sen. Mike Wheat (D)

Members Excused: None.

Members Absent: None.

Staff Present: Judy Keintz, Committee Secretary
Valencia Lane, Legislative Branch
Cindy Peterson, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 362, 2/11/2003
Executive Action:

HEARING ON SB 362

Sponsor: SEN. DUANE GRIMES, SD 20, Clancy.

Proponents: Ron Clem, Kids Talking to Kids
Carren Clem, Self
Peg Shea, Turning Point
William Muhs, President, Mothers Against Drunk
Driving, Gallatin County
Jenny Haubenreiser, Director of Health Promotion,
Montana State University
Gordon Morris, Director, Montana Association
of Counties
Marcy Brakefield, Teens in Crisis
Don Hargrove, Montana Addictive Services Providers
Linda Walrath, Turning Point Addiction
Dan Haffey, Butte Chemical Dependency Center
Sarah Walker, Bozeman Underage Drinking
Reduction Project
Mary Haydal, Executive Director, Senior Volunteer
Program in Miles City
and Miles City Youth Coalition
Jim Kembel, Montana Chiefs of Police
Mike Ruppert, Chief Executive Officer,
Boyd Andrew Community Services

Opponents: Adeline M. Lord, Self
Brenda Nordland, Department of Justice,
Motor Vehicles Division
Scott Crichton, American Civil Liberties Union

Informational

Witnesses: Roland Mena, Bureau Chief, Prevention and
Treatment Services, Department of Public Health
and Human Services
Mike Barrett, Self

Opening Statement by Sponsor:

SEN. GRIMES opened the hearing by stating there is an incredible amount of work in SB 373 in a number of different venues. **SEN. GRIMES** believes aspects of the bill are very innovative and will begin to change the DUI issues encountered by youth. Alcohol use by minors is harmful to themselves and society. This is not about a lack of trust or confidence in young people; it is about allowing them maximum opportunity to stay healthy and record free. The bill is not about punishment, but about giving our

kids a chance. Addictions, life-threatening activities such as binge drinking, criminal records and the negative influences in and of itself, bring about adolescent brain-development issues and dysfunctional relationships, which all start at an early level of life. **SEN. GRIMES** spoke to research which says anyone who uses alcohol before the age of 14 is twice as likely to have lifetime substance abuse problems as someone who waits until they are 19 or older. A study conducted in 2002 shows 41.1 percent of high school students reported binge drinking within the past two years. This is compared to a 14 percent rate for the adult population. This same survey showed only 13.3 percent of high school seniors abstain from drinking and 16.3 percent of seniors reported having received an alcohol or drug-related ticket. In addition, 62.4 percent reported ten or more life-time occasions of drinking alcohol. There is a disproportionate need and demand for alcohol and drug treatment in the age group 18 to 24. They represent 13 percent of Montana's population and 33 percent of the need and demand for treatment. It is the experience of those in the field of chemical dependency treatment that parents of children in MIP classes lack the skills necessary to respond to their child's substance youth. Parent themselves need help in developing the skills to set behavioral boundaries to clearly define expectations and to follow through. **SEN. GRIMES** presented the ACT Admissions Chart, **EXHIBIT(jus33a01)**, and drew the Committee's attention to the sharp increase from age 16 or 17 until age 20. **SEN. GRIMES** feels these are incredible statistics. **SEN. GRIMES** posed the question how we can say we are interested in the well-being of our children when we are so willing to allow such a disrespect for the law. On line 16 of the bill, there is an underage possession issue with anyone between the age of 18 and 21. Currently, the law says a person under 21 commits the offense of possession if a person knowingly consumes or has possession. The problem law enforcement is having and the inconsistencies we are having across the state in this age group, is what is the focus of control. Is it that they are at a kegger? Is it that they are in the same room with someone who is consuming alcohol? **SEN. GRIMES** pointed out that the language in (b) repeats the 21-year-old issue and now says a person under the age of 21 commits the offense if they are associating with a person consuming alcohol if the person is at or in a place where a person or persons under the age of 21 are knowingly consuming or possessing intoxicating substances. This makes a clear statement to law enforcement that this was the intent of this law all along. **SEN. GRIMES** referred the Committee to page 71 and the Explanation section under 6.2.4, Comprehensive Blueprint for the Future, a Living Document, compiled by the Alcohol, Tobacco, and Other Drug Control Policy Task Force, **EXHIBIT(jus33a02)**, and explained that lines 20-22 of the bill address the concern in that section.

In addition, **SEN. GRIMES** stated the penalties will correlate closely with the Alcohol Drug and Task Force recommendations. First offense of MIP will be an amount not less than \$100 and not to exceed \$150. This will begin to crank up penalties for first offense. Just like in DUIs, the first offense is an opportunity to send a message. This will raise the penalty and require a 20-hour minimum of community service. One key aspect is that the parents will also have to appear. High school students are very knowledgeable and word on this bill will spread like wildfire and send shockwaves through the high schools. **SEN. GRIMES** stated the Task Force discovered there are parental issues with MIPs, and the current laws have not been able to get to the root of the problem. The bill will also require participation in a substance abuse information course approved by the Department of Public Health and Human Services (DPHHS).

SEN. GRIMES pointed out that a driver's license is extremely important. Therefore, the best way to get someone's attention is to use the driver's license. **SEN. GRIMES** reported this is currently done in 31 other states, and directed the Committee to page 72 of Comprehensive Blueprint for the Future, a Living Document, which talks about driver's license suspension.

Second offense MIP raises the fines, the length of community service, places responsibility on the parents, and calls for revocation of the driver's license of 45 days.

Third offense MIP raises length of community service, parents must complete and pay for an approved program, and driver's license is suspended for 60 days. **SEN. GRIMES** stated the Task Force recommended suspension for one year, and he prefers that recommendation over the 60-day suspension.

SEN. GRIMES referred the Committee to the top of page 4, and stated our young people are coming of age with preset tendencies and addictions. The bill will allow the identification of statistics and demographics and target programs and money to the right prevention and treatment. Currently, the state of Montana is operating in the blind and has to rely on national statistics and journal research. There is not any data available specific to Montana. Therefore, a person convicted of a second or subsequent offense will be ordered to complete a chemical dependency assessment. It will then be decided whether a person has a problem that will carry into later life and have enormous financial and social repercussions.

SEN. GRIMES stated there are problems with the MIP database. If a person gets an MIP in one county, the other county does not have a record. This is a huge loophole and problem for law

enforcement. Most young people are aware of this fact. **SEN. GRIMES** suggested the department develop confidentiality standards which will allow the exchange of specific information to law enforcement. All information from education and other programs is funneled into one system, but law enforcement cannot access the information because of confidentiality. **SEN. GRIMES** feels if at least the names and county were made available, law enforcement would have a tool that would help with communications.

SEN. GRIMES stated this bill is a cumulation of a great deal of work, and he would like the Committee to come up with a clear and appropriate message that would begin to change the drug and alcohol addiction and abuse problems in young people.

(Tape : 1; Side : B)

Proponents' Testimony:

Ron Clem, representing Kids Talking to Kids, testified that he has three children and supports SB 362 because his daughter, Carren, is a recovering methamphetamine addict. The gateway drug which led her to the final step is alcohol. He feels alcohol is looked upon as a rite of passage by parents. He has formed a group, along with Jeri Gardner, who lost her daughter to a methamphetamine suicide, called "Teens in Crisis." They have implemented a program called "Kids Talking to Kids." This program consists of kids who are coming out of rehab talking to young kids in junior high and high school about the life addiction. **Mr. Clem** told of his daughter's addiction and the impact it made to his family emotionally and financially. **Mr. Clem** stated the state did not help his family in dealing with this addiction. **Mr. Clem** stated the reality is kids need to be held accountable for who they are. His daughter attempted suicide twice, was raped, used drugs and alcohol, and was involved in automobile accidents. **Mr. Clem** sent his daughter to Jamaica to a recovery program that cost them \$100,000, and it took everything they had. It almost destroyed his marriage of 34 years. At sometime, the Committee, the government, the state, parents, and educators have to stand up and make the children be accountable. **Mr. Clem** stated there are five families in the Flathead Valley that have lost their children to methamphetamine addiction, either through suicide or overdose, in the last two years. This bill is an opportunity to make a statement that we want our kids and our communities back.

Carren Clem, a student at Flathead Community College, is a recovery addict, a disease she will have to deal with the rest of her life. SB 362 would open kids' eyes as to what they will

lose, including their freedom. **Ms. Clem** spent a lot of time since age 14 partying and doing drugs. Currently, she has a 3.5 GPA, but at the age of 17, all she could see was a future of drugs and living on the streets. The only reason she is here today is because someone intervened. **Ms. Clem** could not state with certainty that if she had not taken her first drink of alcohol at age 14 it would have changed her life, but she does know that once you drink, you either hate it or love it. Once alcohol becomes boring, you go on to marijuana. This is a serious problem with kids because it is all they have to do. **Ms. Clem** feels there is everything to gain by passing SB 362.

Peg Shea, representing Turning Point, served for six months on the Drug and Alcohol Task Force. In the last six years, block grant funds have done an incredible job gathering profile data on youth. In spring 2002, 19,500 kids across the state took a survey for eighth, tenth, and twelfth graders. In any eighth grade classroom across the state, 40 percent of the students have drank alcohol on five or more occasions, and 28 percent have drank alcohol within the last month. Ten percent have had binge drinking episodes. Based on 2001 data, Montana has the fourth highest alcohol use in the country by young people, and the second highest marijuana use. Prevention has grown ten-fold over the years. **Ms. Shea** talked about strategies, stating kids do trust and need their parents, and parents can have an impact on choices our children make. Another area of influence is peers. Again, if you hold groups of kids accountable, we can impact that subgroup. The third strategy lies with community prevention strategies. Norms are the things they set in their community. Attitudes is what we can set as parents. The last strategy is to change the law. **Ms. Shea** asked the Committee to seriously take the responsibility of passing laws with a clear message to our kids that it is not okay if you drink alcohol.

William Muhs, President of Mothers Against Drunk Driving (MADD) in Gallatin County, served on the Governor's Task Force on Alcohol, Tobacco, and Other Drugs. **Mr. Muhs** submitted written testimony in support of SB 362. **EXHIBIT(jus33a03)**.

Jenny Haubenreiser, Director of Health Promotion, Montana State University, submitted written testimony as a proponent of SB 362. **EXHIBIT(jus33a04)**.

(Tape : 2; Side : A)

Gordon Morris, Director of the Montana Association of Counties, supports SB 362. In reviewing the fiscal note, they were unable to assess what the implications would be financially to the counties. Regardless of what the fiscal implications turn out to

be, the bill has merit and deserves favorable consideration. **Mr. Morris** pointed out, in his opinion, the bill does two things. In the title on line 4, it makes it a crime for a person under 21 to be at or in a place where a person or persons under 21 are knowingly consuming or possessing an intoxicating substance and provides penalties for the offense. The second thing it does is increase the penalties for illegal possession or consumption. On page 2, line 28, it deals with a person 18 years or older who is convicted. What is lacking in the bill is a penalty relative to being a person under 21 years of age who is in a place where a person, other than that individual, is drinking. If you are 21 and you are with underage people who have been drinking, there is no penalty set forth in the bill. **Mr. Morris** feels this needs to be corrected.

Marcy Brakefield, representing Teens in Crisis, is a recovering methamphetamine addict and feels her addiction began with alcohol. **Ms. Brakefield** started drinking for fun. **Ms. Brakefield** feels the bill provides consequences and opportunities for assistance with prevention and recovery. **Ms. Brakefield** also feels the involvement of parents will help, as will the revocation of the driver's license.

Don Hargrove, representing the Montana Addictive Services Providers, thanked **SEN. GRIMES** and the Task Force for bringing the bill forward. **Mr. Hargrove** feels the bill allows young people to take responsibility for their actions and frees them from peer pressure. In addition, it will allow the rest of society to get away from the winks, nods, and looking the other way. The monetary costs to our state are enough to take care of the state's current deficit and then some. Estimates of people behind prison bars in Montana for violent offenses because of alcohol and substance abuse vary from 80 to 100 percent, a huge expense to the state. Most problems dealt with by DPHHS are because of alcohol or substance abuse. The fiscal problems can be addressed in a very practical dollars-and-cents way by addressing these problems. **Mr. Hargrove** feels there are unique aspects to the bill in that it involves the Chemical Dependency Bureau and the professionals in the business. **Mr. Hargrove** feels parents are the most important thing because the focus is on prevention. As a side note, **Mr. Hargrove** feels parents' involvement between the age of 18 and 21 is probably not practical. **Mr. Hargrove** stated HB 61 has some direct conflict with this bill as well.

Linda Walrath, representing Turning Point Addiction in Missoula, testified that they just started a new program for youth which includes parents. She believes the parental component of the bill is very important because parents are influential of their

children's lives. Prior to becoming an employee at Turning Point, **Ms. Walrath** worked for Missoula County and saw over 2,000 young people. **Ms. Walrath** feels the assessment provided on the second offense is very important because of the high number of repeat offenders.

Dan Haffey, a licensed addiction counselor with Butte Silver Bow County, representing Butte Chemical Dependency Center, commended the Task Force for addressing this issue. He feels this bill is long overdue. **Mr. Haffey** has taught MIP classes in four different communities and, at very best, it is consistently inconsistent in the way this has been addressed throughout the state of Montana. **Mr. Haffey** is glad the bill will address the issue of chemical dependency among young people. **Mr. Haffey** frequently uses people from the Pre-Release Center in Butte to speak with high-risk students. The fact that Montana is fourth in the nation for adolescent substance abuse is overwhelming. **Mr. Haffey** stated that young people view our laws as a joke and they do not feel any deterrence with the current process. Butte began getting the parents involved in the MIP process last year and said parents are finally having their eyes opened to what is going on at underage drinking parties. These parties include automobile accidents, date rapes, and assaults. **Mr. Haffey** feels Montana is long overdue in addressing the MIP process.

Sarah Walker, representing Bozeman Underage Drinking Reduction Project, testified underage drinking is a huge problem in Montana and our MIP laws are less stringent than other states. The City of Bozeman has formed an Alcohol Policy Advisory Council to review current city laws and develop recommendations for new policies to reduce underage drinking. Through that process, they have spoken with high school students who say the current MIP laws are not a deterrence to underage drinking. They have heard from students that if they tie in driver's license revocation with MIPs, that would be a deterrent. This is an opportunity to show the youth in Montana that we care about them and take underage drinking seriously.

Mary Haydal, Executive Director, Senior Volunteer Program in Miles City and a founding member with the Miles City Youth Coalition and a past member of the Governor's Task Force on Alcohol, Tobacco, and Other Drugs, submitted written testimony in support of SB 362. **EXHIBIT(jus33a05).** **Ms. Haydal** also submitted written testimony from the **Honorable Joe Hegel, District Judge, EXHIBIT(jus33a06), Sergeant Mark Reddick, School Resource Officer with the Miles City Police Department, EXHIBIT(jus33a07), and Tom McKerlick EXHIBIT(jus33a08).**

Jim Kembel, representing the Montana Chiefs of Police, asked to go on record in support of SB 362 because it clearly defines their duties.

(Tape : 2; Side : B)

Mike Ruppert, Chief Executive Officer of Boyd Andrew Community Services, feels the new concepts in the bill put teeth in the MIP law, and approves of moving the informational courses into the jurisdiction of DPHHS for the sake of regulation and consistency. As the provider of an informational course, he does not feel the current MIP laws have much value. A strict informational course has little therapeutic interventional value. The laws need to be beefed up to make it mandatory that youth get assessments and treatment if they are diagnosed as chemically dependent.

Opponents' Testimony:

Adeline M. Lord, a Helena High School student, submitted written testimony in opposition to SB 362. **EXHIBIT(jus33a09).**

Brenda Nordland, representing the Department of Justice, Department of Motor Vehicles, opposes the bill as the attorney for the Motor Vehicles Division (MVD). The MVD is the clearing house for MIP convictions. There is no way for the Justice of Peace in Bozeman to know if someone had a MIP in Malta unless the Legislature creates a clearinghouse. SB 64 in 1995, the MVD became the clearinghouse and every MIP conviction was reported to MVD. By the end of the calendar year 2000, 6,793 MIPs were on driving records. The next year, **Ms. Nordland** testified on HB 191 and asked the Committee to reconsider. **Ms. Nordland** spoke of a pink fact sheet she handed out then and submitted the same fact sheet as **EXHIBIT(jus33a10).** **Ms. Nordland** was emphatic that the issues which existed in 2001, exist today. First, MIP is not a driving offense and not every MIP is reported to MVD. In order for a driver's license suspension to take effect, it has to be reported to MVD. Based on 2000 figures, theoretically 6,793 license suspensions could be taken next year. This is not realistic for MVD to deal with. The result of MVD being the clearinghouse resulted in them having to take phone calls from parents, insurance agents, and courts. When a MIP is placed on a driving record, it is often treated just as if the parents had a DUI. This occurred even if the act had nothing to do with a motor vehicle. In addition, because MVD was used as a clearinghouse and MIPs were on driving records, it was an impediment to youth trying to enter the armed forces. None of these things were the intended consequences. The information needs to be tracked in a direct and effective manner, not through the back door. In 2002, they suspended 869 drivers' licenses

based on MIP laws. **Ms. Nordland** spoke of the .02 BAC law which also has a drivers' license consequence. They did 460 drivers' license suspensions under 61-8-410. They did 8 suspensions under that same section for second or subsequent offenses. Current law gives justices of the peace and municipal judges the discretion to suspend a person's driver's license. This bill will mandate an action on every conviction. On average DMV receives conviction reports from the court two weeks to one month after it is entered. They take their suspension action from the date of conviction. This creates an impractical implementation because of timing. There are workload issues and **Ms. Nordland** feels the fiscal note is extraordinarily conservative. **Ms. Nordland** favors having a mandated action for failure to comply with therapeutic treatment. This is currently done with adult DUIs. **Ms. Nordland** stated in 2000, 6,700 MIP convictions were put on their records. The total number of convictions put on traffic records was 87,000. This instantly became seven percent of their workload. Between 1990 and 2002, the number of drivers' license suspensions, revocations, and reinstatements has grown by 61 percent. The FTE rate has dropped from 26.85 to 24 people. **Ms. Nordland** urged the Committee to understand the consequences and the workload. **Ms. Nordland** offered to help the Committee put the pieces together.

(Tape : 3; Side : A)

Scott Crichton, representing the American Civil Liberties Union, appreciates the agony and the victory in challenging the problems that go with alcohol and drug addiction. **Mr. Crichton** is troubled with the guilt by association portion of the bill, and he submitted written testimony in opposition to SB 362. **EXHIBIT(jus33a11).**

Mr. Crichton feels the Committee will need to address the cost of treatment for families that cannot afford it. Also, if the Legislature is going to mandate treatment, they must make sure treatment is available for everybody. The Committee needs to understand that, to some degree, alcoholism and drug addiction are related to poverty. **Mr. Crichton** feels if this bill becomes law, it will be voided because of its vagueness regarding guilt by association.

Informational Witnesses' Testimony:

Roland Mena, Bureau Chief, Prevention and Treatment Services, Department of Public Health and Human Services, addressed the program side of the bill. He was really pleased to see the movement to the focus on prevention and treatment. This speaks

to balance of the whole equation between enforcement, treatment, and prevention. This will allow his bureau to establish consistent standards and uniformity. Currently, they have a system in place of state-approved programs which employ licenses addiction counselors that provide services. They would like to see consistency with people who receive an MIP entering into these programs. Services are provided in all 56 counties, and the programs are quite able to respond to the mandate. In addition, there are clear assessment rules and standards, clear standards of diagnoses, and clear rules on placement into various levels of care, based on need. **Mr. Mena** asked that these programs be able to provide the services. These programs also report on their alcohol and drug information system and reports demographic information on admission and discharge, and **Mr. Mena** feels they could expand their system to accommodate that. Unfortunately, it would not be able to handle the law enforcement side of the data collection.

Mike Barrett, representing himself, submitted written testimony, **EXHIBIT(jus33a12)**, attempting to get the Committee to legislate innovations, and he feels fundamental truths are sometimes obscured. **Mr. Barrett** feels Exhibit 12 applies to SB 362 peripherally in that it speaks to human nature and legislation of safe use in schools.

Questions from Committee Members and Responses:

SEN. JEFF MANGAN asked **SEN. GRIMES** to clarify the language for the association offense and if the graduated sanctions that follow apply to the association offense.

SEN. GRIMES responded they do, and he directed the Committee to page 2, line 27, where it says "under this section." Therefore, persons 18 or older under this section would have the same things apply. **SEN. GRIMES** thought maybe the language on line 20 should be clarified.

SEN. MANGAN asked about an individual who was between the age of 18 and 21, who receives an MIP while away at college, and the law would require both the individual and his/her parents to attend the information course. **SEN. MANGAN** wondered how that would be enforced.

SEN. GRIMES feels DPHHS would adopt rules that would clarify those exceptions. Also, it would depend on the wording of some of the language.

SEN. MANGAN asked if **SEN. GRIMES** intended that college students be treated differently than another individuals.

SEN. GRIMES made it clear his intentions were that these individuals would be treated the same, and that it is a very serious offense. It is also his intent that they clarify exactly what is meant because there is so much disparity with regard to the issue of possession in the 18 to 21 age bracket.

SEN. MANGAN commented to **Ms. Clem** and **Ms. Brakefield** that he appreciated them coming and they are on the right track. He encouraged them to continue with sobriety.

SEN. BRENT CROMLEY stated to **Ms. Haubenreiser** that he was reviewing the statute passed in 1973 and it has been regularly amended, most recently in 2001. It appears all of those amendments had to do with broadening the scope of the offenses and increasing the punishments. **SEN. CROMLEY** senses this is a health issue, and asked if **Ms. Haubenreiser**, as a health professional, had any news she could report to the Committee on the success of the Legislature's attempts, and if they have, in fact, been able to reduce the rate of use of alcohol by minors.

Ms. Haubenreiser responded when looking at the effectiveness, they look first at increasing enforcement. Since there have been many more MIPs issued, enforcement would seem to be working. The next stage is to look at the data and it is impossible to look at violations as any indicator of what is being done behaviorally. The other difficult issue is that demographics have changed considerably. There are more and more out-of-state students and, in fact, universities are recruiting out-of-state students. These students come in with different perceptions of what norms of behavior are. Based on research and what she knows, these types of laws definitely impact behavior, especially when there is a sanction that involves a personal freedom. It is hard to separate who needs treatment and who needs stricter laws. Based on local, state, and national data, these types of laws are fundamental in terms of effecting behavior.

SEN. MIKE WHEAT stated to **Ms. Haubenreiser** that based on the testimony and his own reading, it is clear there is a rise in the incidents among college student's drinking. **Ms. Haubenreiser** agreed. **SEN. WHEAT** then stated this legislation is an effort to get a handle on underage drinking below the age as 18, as well as those between 18 and 21. **SEN. WHEAT** believes it is important for the Legislature to act, but would like to know what the University System has done to partner with the Legislature in getting a grip on this problem.

Ms. Haubenreiser believes the cooperation between the campus and the community is key. The students are affected as much by the community and state laws as anything they can do on campus. She

deals with the alcohol issue on campus, the number one health issue on campus. She is one person for 12,000 students. Anything they do must be comprehensive. Advertising, local ordinances, cheap drink specials are all community issues which have impact on students. It is not a campus issue, it is a community issue because the students are in the communities.

SEN. WHEAT asked **Ms. Haubenreiser** to share with the Committee the positive things the campus in Bozeman has done to teach students about drug and alcohol abuse.

Ms. Haubenreiser informed the Committee that they have mandatory early intervention programs. If someone receives an MIP on their campus they are referred to a treatment program. They have a graded assessment program which ranges from the kid who is caught in the dorm with a beer to the person with a full-blown alcohol addiction. They saw approximately 400 individuals last year and expect to see this number increase to approximately 525 this year. In addition, students who are convicted of an MIP go through the course. **Ms. Haubenreiser** reiterated that when students come onto campus, they look to see what is the norm in behavior and that is where the policies and laws are critical.

SEN. WHEAT asked whether the treatment plans available on campus are approved by DPHHS.

Ms. Haubenreiser replied she believes they are. They are standardized treatments which follow protocols.

When asked the same question, **Mr. Mena** explained it is a two-part answer, the first part being DPHHS approves programs to provide services and, within that approval, they become eligible for contracts and the alcohol earmarked tax. The second part is the Department of Labor licensed addiction counselors. This bill provides a mechanism for DPHHS to establish standards for writing rules for MIP within the state-approved programs. The second piece is that it requires a licensed addiction counselor, who is the one that delivers the services. The campus program is not a state-approved program; however, it employs a licensed addiction counselor. **Mr. Mena** feels this is an issue which would need to be considered in the rulemaking process. In addition, DPHHS, within these state-approved programs, goes out once a year and reviews every single program to ensure we are meeting standards.

SEN. WHEAT asked if **Mr. Mena** sees this as a problem, and **Mr. Mena** responded he sees it as a potential problem around state approval. However, he sees the way to address this problem as being a relationship between the University campus and the state-approved program. They could have a contractual agreement that

would extend that ability, and then go through the rulemaking process and public hearings, and set up focus groups to see what the best way is to accomplish this.

SEN. WHEAT told **SEN. GRIMES** that one of the things he has learned as a freshman legislator is that the veterans hate unfunded mandates from the federal government to the states. **SEN. WHEAT** wonders if this is going to result in an unfunded mandate for treatment. **SEN. WHEAT** asked if this Legislature will put the money where its mouth is in providing treatment and taking care of kids.

SEN. GRIMES replied there could be issues with tobacco settlement dollars and issues related to monies whose nexus would be prevention. The other issue, as well, is there may be other sources of funds available through other channels, grants, etc. That is not to say we should not go ahead with this law even if funding is not clearly established. If our whole comprehensive plan has critical elements, including this, it will weigh on the minds of legislators as they move into HB 2 discussions. The Committee is where the policy is established; HB 2 is where those policies get further funded.

(Tape : 3; Side : B)

SEN. WHEAT then asked about the availability of federal money for treatment programs outlined in the bill.

Mr. Mena replied within the state-approved programs, the alcohol earmarked tax is one of the major funding streams. DPHHS then allocates the money to the state-approved programs by way of the County Commissioners. The second piece of money that comes in is the alcohol earmarked money used as a medicaid match for medicaid-eligible clients. The third piece of money is a substance abuse treatment block grant they receive from the Center for Substance Abuse Treatment. That is the major piece of money used to fund services. In addition, there are numerous federal funding opportunities for building underage drinking initiatives. Some communities have been very successful at landing those grants. The eligibility for the block grant is 200 percent of poverty. For a family of four it is approximately \$36-37,000 per year. Treatment is not always the end result, and this will give the opportunity to evaluate the need for treatment. The youth does not have to be dependent, but abusing. This creates a good opportunity to get in there before the child progresses to dependency.

SEN. GERALD PEASE asked **SEN. GRIMES** if the Drug Task Force considered the penalties for people who contribute alcohol to minors.

SEN. GRIMES replied there is a separate law on contributing to the delinquency of a minor, and those seem to be sufficient. The Task Force did not spend a great deal of time, if any, on that issue.

SEN. JERRY O'NEIL asked **Peg Shea** if the Task Force investigated to see if there is an association between single-parent families and the use of drugs and alcohol.

Ms. Shea responded the Task Force did not look at any specific data on that. As a professional in the field for 25 years, she found there are often times a higher use and other problem behaviors between 3:00 p.m. and 7:00 p.m., in large part because they do not have parental supervision.

SEN. McGEE stated to **Ms. Haubenreiser** that she indicated they have intervention programs on campuses and there may be 500 people they will serve this year. **SEN. McGEE** wanted to know how much that would cost.

Ms. Haubenreiser responded it is self-funded, and the students are charged a fee to attend. The students are sanctioned with a fine for attending the class. The University supplies the overhead, but the costs are minimal.

SEN. McGEE specifically wanted to know if there are tax dollars used for the program. **Ms. Haubenreiser** stated it is from Student Health Service fees, which are part of the fees paid with tuition.

SEN. McGEE inquired if the University had ever considered expelling students. **Ms. Haubenreiser** replied they do. Students go through a Student Conduct Review Board. Based on what the infraction is, they have their own judicial system within the campus. Expelling a student is definitely an option. Serious behavior misconducts go through the judicial system on campus and students are either suspended or expelled.

SEN. McGEE asked if the University restricts the use of automobiles, and **Ms. Haubenreiser** responded they do not, because they do not have that authority.

SEN. GARY PERRY asked **Mr. Hargrove** to help him with the dilemma of how to say to a person 18 to 20 years old that you are now an adult and are qualified to be sent to face chemical and/or

biological warfare, and you might die. On the other hand, if you are caught in a place where a person under 21 possesses alcohol, you are a child, and will be accompanied by your parents to attend a substance abuse course.

Mr. Hargrove responded that society has a responsibility to do that. The fact that you are going to fight for your country has nothing to do with whether you can drink. This is a change in the attitude in the people of Montana. **Mr. Hargrove** stated the U.S. Military has changed its attitude toward alcohol and the military has bypassed the country in general as far as being a non-drinking organization. **Mr. Hargrove** feels we have a responsibility in Montana to work toward these goals. The responsibility for protecting our country and protecting society go together.

SEN. PERRY asked if Montana is fourth in the United States for having the worst problems with alcohol abuse by youth, then could he assume there are 46 states with laws similar to what is being proposed in SB 362.

SEN. GRIMES could not speak to all the laws across the country, but knows 31 states deal with the drivers' license issue.

Mr. Muhs submitted a chart listing the different penalties utilized by other states. **EXHIBIT(jus33a13)**.

SEN. PERRY stated specifically he would like to know if other states have guilt by association statutes.

Mr. Muhs could not answer, but did state most of the statutes are use and lose statutes with respect to drivers' licenses.

SEN. CROMLEY has concerns about the use of the word "place," and wonders whether it is necessary to confine the offense of associating to persons under 21.

SEN. GRIMES replied this is an issue and really addresses the kegger situation. If a person is under 21, they will be charged under this statute. If they are over 21, they will be charged under a different statute. **SEN. GRIMES** stated crafting a law which would allow for a designated driver could be problematic.

SEN. WHEAT asked what impact this bill would have on DPHHS workload.

Mr. Mena stated his department forwarded a fiscal impact statement and feels there will be a workload increase. However,

they feel they could manage that workload within the current resources.

SEN. WHEAT wondered if passing this legislation would place DPHHS in a position for more federal money.

Mr. Mena stated DPHHS uses all resources and data they have which reflects they are doing a good job and responding to state health issues when they apply for federal block grants. In addition, they use that data in applying for additional grants. It does have an impact when applying for federal money.

SEN. PERRY stated, under 16-6-305, a person over the age of 21 to provide alcohol to a person under the age of 21 in "intoxicating quantity," is defined as being in excess of .05. **SEN. PERRY** feels an adult would not be guilty if they were to provide two to four ounces of alcohol to someone under the age of 21.

SEN. GRIMES stated they would have to coordinate with that statute because he thought contributing to a minor meant any alcohol at all.

Closing by Sponsor:

SEN. GRIMES closed by stating the laws are not consistent with DUI laws and MIP laws, but are now moving forward with more refined and defined treatment options. In addition, both the Attorney General's Office and Governor's Office saw the need with taking a comprehensive look and created the Task Force. The numbers indicated this is an incredible problem in Montana.

With regard to the military issue, everyone is sensitive about the issue stating there is strength in youth and they clearly know their social responsibility. He feels youth in the military are willing to do their part to prevent social irresponsibility. Montana needs to decide what its social norms will be.

(Tape : 4; Side : B)

From the testimony, **SEN. GRIMES** feels it is clear somebody needs to step up to the plate and take action. It has to start with the Legislature. This legislation will force kids to discuss these issues with their parents. Alcohol is the number one problem for Montana State University and the surrounding community. The driver's license has everything to do with a person's freedom. **SEN. GRIMES** stated Cassie Haydal was a beautiful person and asked her mother to provide Cassie's diary to the Committee. Unfortunately, parents and counselors lack options in dealing with alcohol. This is a comprehensive plan to

deal with the problem. In serving on the Task Force, **SEN. GRIMES** brought up political issues, while the members hit him full force with reality. **SEN. GRIMES** feels all the credit should go to the Task Force, and his efforts pale in comparison to their efforts. The difficulty will be to make this bill work politically. This bill has the support of law enforcement, the counseling community, the education community, and the university community. It is time to move in a comprehensive manner in a way that will spare young people of life-long scars.

ADJOURNMENT

Adjournment: 11:40 P.M.

SEN. DAN McGEE, Vice Chairman

CINDY PETERSON, Secretary

DG/CP

EXHIBIT (jus33aad)